

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-122

March 10, 2003

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Potential Violations of
State Laws and Commission Rules by
WebNet Communications, Inc.

PROCEDURAL ORDER NO.10

This Procedural Order summarizes the rulings made at the motions hearing held on January 7, 2003. The Prosecutorial Staff, WebNet and the Public Advocate all participated in the hearing by telephone.

1. Denial of Motion in Limine.

The Motion *in Limine* filed by WebNet on December 6, 2002, is denied. The Prosecutorial Staff may introduce in evidence, at the hearing in this case, the Consumer Assistance Division (CAD) Notes that relate to any of the specific complaints that the Prosecutorial Staff will attempt to prove. For the purpose of this ruling CAD notes are defined at page 2 of the Prosecutorial Staff's Opposition to Motion in Limine, filed on January 3, 2003.

This ruling is not based on the business records exception to the hearsay rule contained in the Maine Rules of Evidence, M.R.Evid. 803(6).¹ It is based on the provisions of 35-A M.R.S.A. § 1311(2). The reasons for the ruling are stated at pages 21-24 of the transcript of the January 7 hearing.

At the hearing (Transcript 21-22), the Examiner ruled that WebNet would be permitted to file a motion for reconsideration of the ruling within 10 days. WebNet did not file any motion. The ruling is therefore final.

2. Denial of Motion to Compel Further Answers

The Revised Motion to Compel Further Answers to Interrogatories, filed by WebNet on December 17, 2002, is denied. The motion sought answers to a number of interrogatories that consisted of questions such as "identify each fact relied on to support the claim of [e.g., slamming]." The primary reason for denial are that the Prosecutorial Staff has supplied summaries of witness statements, affidavits from many witnesses and the full CAD case file (a/k/a CAD notes) for each specific complaint. The Examiner found, contrary to assertions by WebNet, that the latter were provided to

¹ I did not rule that they were not admissible under Rule 803(6). I made no ruling concerning their admissibility under that Rule.

WebNet in a reasonably organized fashion. The full reasons for denying the motion are stated at pages 43-46 of the January 7 transcript.

At the hearing (Transcript 45-46), the Examiner ruled that WebNet would be permitted to file a motion for reconsideration of the ruling within 10 days. Specifically, WebNet was offered an opportunity to file an affidavit by the attorney to whom the case files were provided concerning the organization of the files. WebNet did not file any motion or affidavit. The ruling is therefore final.

Dated at Augusta, Maine, this 10th day of March, 2002.

BY ORDER OF THE HEARING EXAMINER

Peter Ballou